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OCEANS AND THE LAW OF THE SEA: LAW OF THE SEA

Australia, Brazil, Canada, Costa Rica, Cyprus, Czech Republic, Fiji, Finland, Germany, Iceland, Indonesia, Ireland, Jamaica, Kenya, Marshall Islands, Micronesia (Federated States of), Mongolia, Namibia, New Zealand, Norway, Portugal, Saint Vincent and the Grenadines, Samoa, Solomon Islands, Sri Lanka, Sudan, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay: draft resolution

Oceans and the law of the sea

The General Assembly,

Recalling its resolutions 49/28 of 6 December 1994, 50/23 of 5 December 1995 and 51/34 of 9 December 1996 adopted subsequent to the entry into force of the United Nations Convention on the Law of the Sea[1] on 16 November 1994,

Emphasizing the universal character of the Convention and its fundamental importance for the maintenance and strengthening of international peace and security, as well as for the sustainable use and development of the seas and oceans and their resources,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Conscious also of the strategic importance of the Convention as a framework for national, regional and global action in the marine sector, as recognized

[1] Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

also by the United Nations Conference on Environment and Development in chapter 17 of Agenda 21,[2]

Recalling its resolution S-19/2 of 29 June 1997, to which is annexed the Programme for the Further Implementation of Agenda 21, in particular paragraph 36 thereof dealing with oceans and seas, as well as its decision that oceans and seas will be the sectoral theme discussed at the seventh session of the Commission on Sustainable Development in 1999,

Recalling also its resolution 49/131 of 19 December 1994 on the International Year of the Ocean,

Considering that, in its resolution 2749 (XXV) of 17 December 1970, it proclaimed that the seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction ("the Area"), as well as the resources of the Area, are the common heritage of mankind, and considering also that the Convention, together with the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Agreement"),[3] provides the regime to be applied to the Area and its resources,

Noting with satisfaction the increase in the number of States parties to the Convention and the Agreement,

Aware of the importance of the effective implementation of the Convention and its uniform and consistent application, as well as of the growing need to promote and facilitate international cooperation on the law of the sea and ocean affairs at the global, regional and subregional levels,

Recognizing the impact on States of the entry into force of the Convention and the increasing need, particularly of developing States, for advice and assistance in its implementation in order to benefit thereunder,

Recalling the provisions of Part XV of the Convention establishing a comprehensive dispute settlement system and article 287 of the Convention regarding the choice of means for the settlement of disputes,

Recalling the establishment of the International Tribunal for the Law of the Sea ("the Tribunal")[4] in accordance with Annex VI to the Convention as a new means for the settlement of disputes concerning the interpretation or application of the Convention and the Agreement,

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[2] Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions Adopted by the Conference, resolution 1, annex II.

[3] Resolution 48/263, annex.

[4] SPLOS/14, chap. III.

Welcoming the establishment of the Commission on the Limits of the Continental Shelf ("the Commission") during the Sixth Meeting of the States parties to the Convention,[5]

Noting the progress in the work of the Commission during its first[6] and second[7] sessions, held in June and September 1997, on developing its rules of procedure and its modus operandi,

Recalling also that the institutions established by the Convention shall be cost-effective,

Expressing its appreciation once again to the Secretary-General for his efforts in support of the Convention and in the effective implementation of the Convention, including providing assistance in the functioning of the institutions created by the Convention,

Noting the responsibilities of the Secretary-General under the Convention and related resolutions of the General Assembly, in particular resolution 49/28, and emphasizing the importance of the performance of such responsibilities for the effective and consistent implementation of the Convention,

Recalling its resolution 50/214 of 23 December 1995, in which it decided that savings in the programme budget would not affect the full implementation of mandated programmes and activities,

Noting with appreciation the continued efforts of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat to provide timely information on the oceans, marine affairs and the law of the sea through its Web site on the Internet,

Conscious of the need to promote and facilitate international cooperation, especially at the subregional and regional levels, in order to ensure the orderly and sustainable development of the uses and resources of the seas and oceans,

Taking note of the report of the Secretary-General,[8] and reaffirming the importance of the annual consideration and review by the General Assembly of the overall developments pertaining to the implementation of the Convention, as well as of other developments relating to the law of the sea and ocean affairs,

1. Calls upon all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention and the Agreement;

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[5] SPLOS/21, chap. III.

[6] CLCS/1.

[7] CLCS/4.

[8] A/52/487.

2. Calls upon States to harmonize their national legislation with the provisions of the Convention, to ensure the consistent application of those provisions and to ensure also that any declarations or statements that they have made or make when signing, ratifying or acceding are in conformity with the Convention and to withdraw any of their declarations or statements that are not in conformity;

3. Reaffirms the unified character of the Convention;

4. Requests the Secretary-General to convene the Meeting of States Parties to the Convention from 18 to 22 May 1998;

5. Approves the convening by the Secretary-General of the third and fourth sessions of the Commission, to be held from 4 to 15 May and 31 August to 4 September 1998 respectively;

6. Notes with satisfaction the progress in the work of the International Seabed Authority, in particular the approval, during the third session of the Authority in 1997, of seven plans of work for exploration in the Area, and the progress being made by the Legal and Technical Commission towards the formulation of a draft Mining Code;

7. Also notes with appreciation the adoption of the Agreement on the Privileges and Immunities of the Tribunal, the progress made towards the conclusion of a Headquarters Agreement between the Tribunal and Germany and the adoption by the Tribunal of the Rules of the Tribunal, the resolution on Internal Judicial Practice and the Guidelines for the Preparation and Presentation of Cases Before the Tribunal;

8. Encourages States parties to the Convention to consider making a written declaration choosing from the means set out in article 287 of the Convention for the settlement of disputes concerning the interpretation or application of the Convention and the Agreement, and invites States to note also the provisions of Annexes V, VI, VII and VIII to the Convention concerning conciliation, the Tribunal, arbitration and special arbitration;

9. Expresses its appreciation to the Secretary-General for the annual comprehensive report on the law of the sea[8] and the activities of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat, in accordance with the provisions of the Convention and the mandate set forth in resolution 49/28;

10. Requests the Secretary-General to ensure that the institutional capacity of the Organization adequately responds to the needs of States, the newly established institutions (including the International Seabed Authority and the Tribunal) and other competent international organizations by providing advice and assistance, taking into account the special needs of developing countries;

11. Also requests the Secretary-General to continue to carry out the responsibilities entrusted to him in the Convention and related resolutions of the General Assembly and to ensure that the performance of such activities is

not adversely affected by savings as may be realized under the approved budget for the Organization; these activities include, inter alia:

(a) Preparing annually a comprehensive report for the consideration of the General Assembly on developments relating to ocean affairs and the law of the sea;

(b) Preparing periodically special reports on specific topics such as fisheries, transit problems of the landlocked developing States or other topics of current interest, including those requested by intergovernmental conferences and bodies, taking into account the provisions of the Convention;

(c) Developing and maintaining the appropriate facilities for the deposit by States of charts and geographical coordinates concerning maritime zones including lines of delimitation and to give due publicity thereto, as required by article 16, paragraph 2, article 47, paragraph 9, article 75, paragraph 2, article 76, paragraph 9 and article 84, paragraph 2, of the Convention;

(d) Strengthening the existing system for the collection, compilation and dissemination of information on ocean affairs and the law of the sea and, in cooperation with the relevant international organizations, furthering the development of a centralized system for providing coordinated information and advice;

(e) Undertaking efforts to promote better understanding of the Convention and the Agreement in order to ensure their effective implementation;

(f) Ensuring appropriate responses to requests of States, in particular developing States, for advice and assistance in implementing the provisions of the Convention and the Agreement;

(g) Preparing for and convening the Meetings of States Parties to the Convention and providing the necessary services for such meetings, in accordance with the Convention;

(h) Preparing for and convening the meetings of the Commission and providing it with the necessary services in accordance with the Convention;

(i) Strengthening training activities in ocean and coastal area management and development;

12. Reaffirms the importance of ensuring the uniform and consistent application of the Convention and a coordinated approach to its overall implementation, and of strengthening technical cooperation and financial assistance for this purpose, stresses once again the continuing importance of the efforts of the Secretary-General to these ends, and reiterates its invitation to the competent international organizations and other international bodies to support these objectives;

13. Invites Member States and others in a position to do so to contribute to the further development of the Hamilton Shirley Amerasinghe Memorial Fellowship Programme on the Law of the Sea and of the training and educational

activities on the law of the sea and ocean affairs established by the General Assembly in its resolution 35/116 of 10 December 1980, as well as advisory services and assistance in support of effective implementation of the Convention;

14. Calls upon States to implement General Assembly resolution 51/189 of 16 December 1996 and to strengthen the implementation of existing international and regional agreements on marine pollution;

15. Also calls upon States to take actions, individually or collectively and through their participation in competent global, regional, and subregional forums, to improve the quality and quantity of scientific data as a basis for effective decisions related to protection of the marine environment and the conservation of marine living resources;

16. Notes that it proclaimed 1998 the International Year of the Ocean;

17. Reaffirms its decision to undertake an annual review and evaluation of the implementation of the Convention and other developments relating to ocean affairs and the law of the sea;

18. Requests the Secretary-General to report to the General Assembly at its fifty-third session on the implementation of the present resolution, including other developments and issues relating to ocean affairs and the law of the sea, in connection with his annual comprehensive report on oceans and the law of the sea, and to circulate the report sufficiently in advance of the General Assembly item concerning oceans and the law of the sea;

19. Decides to include in the provisional agenda of its fifty-third session an item entitled "Oceans and the law of the sea".